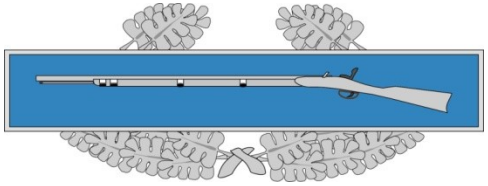
Investigations

IG Investigations



An Investigator's Purpose

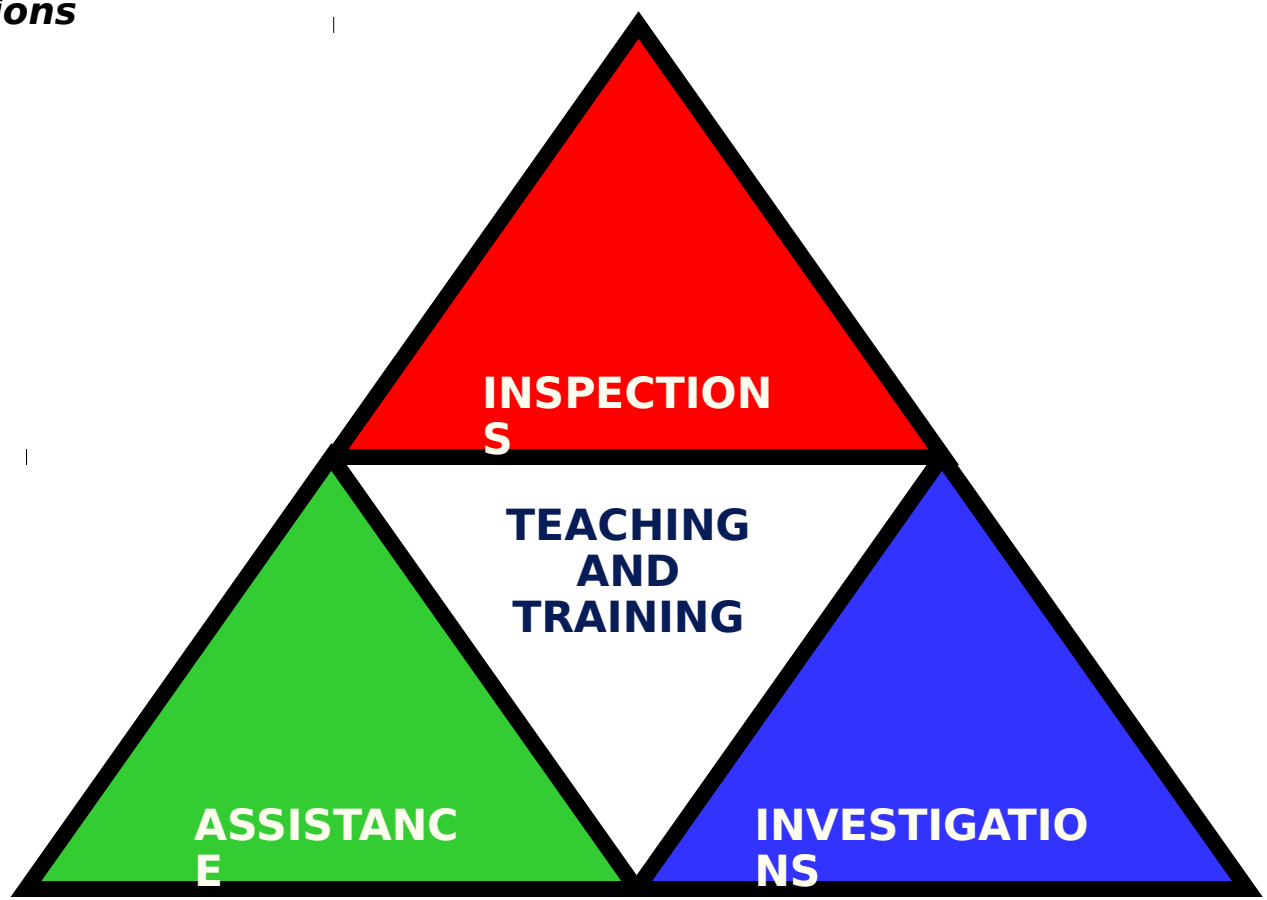
- **Unwavering** commitment to standards
- Focus on Army **values**
- **Fairness** and equity to all personnel
- **Protect** the best interests of the Army
- Army first, **Soldiers** always
- **We work for the Commander!**

IGs are fair and impartial fact finders…

We call balls and strikes!

Linked Functions

IG Investigations



Outline

- ✓ Introduction
- IGAP
- How to Conduct IGPA
- Gathering the Facts
- Evaluating the Evidence
- Notification of Results
- Records Release
- Review

Introduction

- **References**
  - **AR 20-1, IG Activities and Procedures**
    - **Chapters 3 and 7, Appendix D, and the Glossary**
  - **Part Two, The Assistance and Investigations Guide**
  - **Advance Sheets**

- **Please have them available!**

Setting Conditions for Success

- Stay current with the reading
- Refer to the A & I Guid
- Keep your Matrix upda
- Participate

Enabling Learning Objectives

ELO

1. Describe a person's role and status in an IG Investigation / Investigative Inquiry
2. Describe an individual's rights or non-rights given that person's role and status
3. Describe a fact and the levels of evidence used in the Investigations function
4. Describe the IG Standard of Proof

Enabling Learning Objectives

6. Identify the allegations and issues in a complaint
7. Describe the actions an IG should take upon receiving an allegation against a senior official
8. Explain that IG fact-finding is appropriate given an allegation and other circumstances
9. Describe an IG Investigation and IG Investigative Inquiry and the differences between them

Enabling Learning Objectives

10. Explain which IG method – Investigative Inquiry or Investigation – is preferable for a particular case

11. Describe how an IG plans an Investigative Inquiry or Investigation

12. Demonstrate evidence-gathering activities by reviewing documents; analyzing data; and interviewing witnesses, subjects, or suspects

Enabling Learning Objectives

13. Describe how IGs use command products to resolve an allegation in a ROI / ROII

14. Complete a Report of Investigation (ROI)

15. Describe a request for IG information and the proper actions taken by the IG

Overview

- We will discuss how IG Investigations fit into the IGAP

- IGs collect and evaluate evidence to substantiate or not substantiate allegations

Methodology

- Discussion
- Practical Exercises
- Homework
- Quiz

Investigations Instruction

IG Investigations

Tuesday

Intro
ELOs
Admin

IGAP

IGPA

Gather
Facts

CASE STUDY

Wednesday

Interview
Techniques

Evaluating
Evidence

Witness
Interview

CASE STUDY

Thursday

Suspect
Interview
Evaluating
Evidence

Writing
Reports

CASE STUDY

Homework
Issued

Big 3 Panel

Friday

Quiz!

Whistle-
Blower
Reprisal /
Mental
Health
Evaluations

Weekend!

Monday

HOMEWORK DUE 0900

Introduction

ELO 1

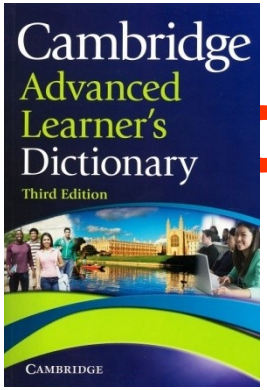
IG Investigations

Who's Involved?

- Role: Witness, Subject, Suspect
- Status: Military, DA Civilian, Contract Civilian, or Civilian-Civilian
- Complainant: Anonymous, Injured Party, Third Party
- Subject / Suspect: Who? Assigned where? Status?
- Commander / Supervisor
- IGs use investigations and investigative inquiries to resolve allegations, resulting in Reports of Investigation (ROI) and Reports of Investigative Inquiry (ROII), respectively . Role and Status is the same regardless of which methodology.

AR 20-1, paragraph 7-1g;
The A&I Guide, Part Two, Sections 1-2, 1-3, and 1-6

Vocabulary



- **Witness:**
  - Someone whom we believe has some knowledge to support or refute an allegation.
  - May also be a subject-matter expert (SME).
- **Subject:** Someone against whom a non-criminal allegation is made
- **Suspect:** Someone against whom a criminal allegation is made

AR 20-1, paragraph 7-1g;
The A&I Guide, Part Two, Sections 1-2 and 1-3

Witness Cooperation

Who is required to cooperate?

- **Military? When in a duty status**
  - **Army Active Duty? Always**
  - **Army Reserve? When in a duty status**
  - **Army National Guard (Federal Interest)? When in a duty status**
- **Department of the Army Civilians? Always**
- **Contractors? It depends on the contract**
- **Civilians not employed by the DoD? Only if ordered by the Director or Commander**

(Civilian / Civilians)

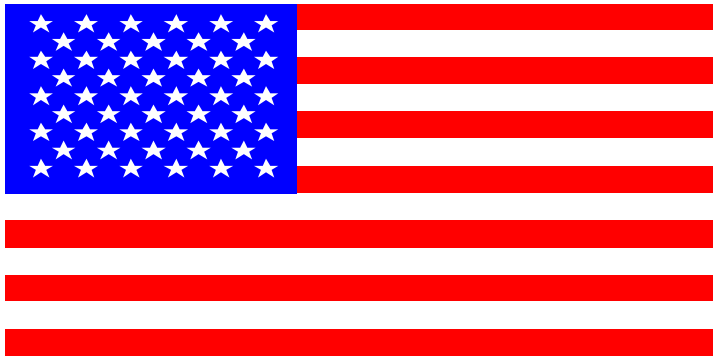
- **Other DoD Military Personnel and Civilians? Only if ordered by their command**

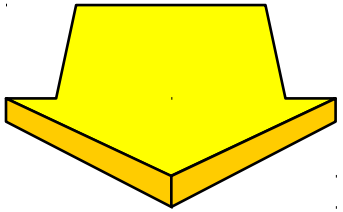
The A&I Guide, Part Two, Section 1-6

Rights and Non-Rights

ELO 2

ADMINISTRATIVE DUE PROCESS





WITNESSES
SUBJECTS
SUSPECTS

AR 20-1, paragraphs 7-1f and 7-1g;
The A&I Guide, Part Two, Sections 1-4 and 1-5

Rights

- **Know Rights Under Article 31**

  (Suspect)

- **Have Counsel Present**

  (Suspect)

- **Remain Silent**

  (Suspect) Plus…..

Rights Cont.

- **Know and Comment on Allegations (Subject)**
- **Know and Comment on Unfavorable Information (Subject)**
- **Plus….**

Rights (cont'd)

IG Investigations

- **Consult with Counsel**

  (Witness)

Different from Attorney present

- **Confidentiality**

  (Witness) But....

- **Review Own Testimony**

  (Witness)

- **Avoid Self Incrimination**

  (Witness)

- **Have a Union Representative Present**

  (DoD Civilian)

Rights (summary)

Suspect

1. Know Art 31 Rights
2. Have Counsel Present
3. Remain Silent
4. ...plus Subject rights

Subject

5. Know and Comment on Allegations
6. Know and Comment on Unfavorable Infor
3. ...plus Witness rights

Witness

7. Consult with Counsel
8. Confidentiality
9. Review Own Testimony
10. Avoid Self Incrimination

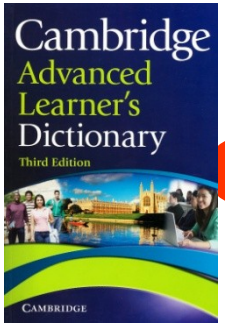
Non-Rights

- Know the identity of witnesses
- Be present during questioning of others
- Question others
- Review evidence
- Have a friend present during ques
- Record / take notes during an inte

Summary

- **Define the following terms:**
  - **Witness**
  - **Subject**
  - **Suspect**
- **What are a suspect's rights during an IG Investigative Inquiry or Investigation?**
- **What are a subject's rights during an IG Investigative Inquiry or Investigation?**
- **When must contract-civilians cooperate during an IG Investigative Inquiry or Investigation?**
- **Must a DA Civilian employee cooperate with an IG Investigative Inquiry or Investigation?**

IG Investigations



ocabulary

- **Investigation**: **A fact-finding examination into allegations, issues, or adverse conditions of a serious nature to provide the directing authority with a sound basis for decision and actions.**

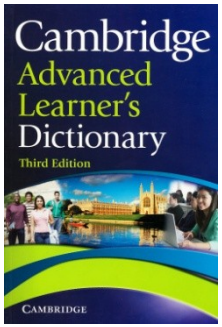
ROI

FORMAL

- **Investigative Inquiry: A fact-finding examination into allegations, issues, or adverse conditions that are not significant in nature.**

ROII

INFORMAL



Vocabulary

- **Directing Authority:**
  - **An Army official that has authority to direct an IG investigation.**
  - **Commanders or directors that have detailed IGs on their staffs may direct IG Investigations.**
  - **At DA, Secretary of the Army, Undersecretary of the Army, CSA, VCSA, and TIG.**
  - **The Adjutant General (TAG)**
  - **Report-approval authority may be delegated in writing to a deputy**

Levels of Evidence

ELO 3

The A&I Guide, Part Two, Sections 1-9, 1-10

IG Investigations

Value

High

Low

Direct - First-hand knowledge

Circumstantial - Tends to prove or disprove an issue by inference

Hearsay - What one individual says another person said

Opinion - A person's belief or judgment

Fact - Things that are known to have happened and things that are known to be true (two or more sources of information)

Standard of Proof

AR 20-1, paragraph 7-1a

ELO 4

IG Investigations

- **Preponderance of credible evidence**
  - **That evidence which has more weight**
  - **>50%**
  - **"More likely than not"**

- **Only two conclusions:**

  Substantiated **"S"**

  Not Substantiated **"N"**

Allegation

ELO 5

- **Who**
  - Must be an individual
- **Improperly**
  - The word "improperly" shows wrongdoing *
- **Did** (or failed to do)
- **In Violation of a Standard**
  - A standard is law, regulation, or policy

AR 20-1, Glossary; The A&I Guide, Part Two, Sections 2-1, 2-2, and 2-3

Inspector General Action Process (IGAP) – 7 Steps

1. Receive the IGAR
2. Conduct IGPA
3. Initiate Referrals / Make Notifications
4. Obtain the Facts
5. Make Notifications of Results
6. Conduct Follow-up
7. Close the IGAR

Receive the IGAR (Step 1)

How can we receive IGARs?

IGPA (Step 2)

ELO 6

IG Investigations

- **What's the first thing we do after we receive the IGAR?**
- **Identify the Issues and Allegations**
- **How to read a complaint…**

The A&I Guide, Part Two, Sections 2-1, 2-2, and 2-3

Typical Complaint

Our director, MR. JONES, is a real JERK. He has a clique of cronies that get all the good deals. The rest of us don't get anything. He also ordered new office furniture for himself and his SECRETARY. That is a real waste since we are laying off good workers. I also heard that he uses his frequent-flyer mileage for PERSONAL travel. He boasts that he is "IN TIGHT" with the General and that is why he can do whatever he wants to do. If you check, you can verify these things with Ms SMITH, Ms CLARK, Mr. CALVIN, and Mr. HOBBS. They know ALL about HIM.

A CONCERNED EMPLOYEE

Reporting Requirements

Where do you report allegations against these individuals and who can work them?

ELO 7

- **Senior Officials (COLs(P), GOs, and SESs):** Report to DAIG Investigations Division (SAIG-IN) within two working days
  - Do not inquire / investigate
  - Document with one minute IGAR, but do not enter name of senior official
  - SAIG-IN may provide additional guidance at that time
  - AR 20-1, paragraph 7-1l, Appendix D-1; The A&I Guide, Part Two, Section 2-5

Reporting Requirements

Where do you report allegations against these individuals and who can work them? cont.

- **IGs:** Report to the next higher-echelon IG for appropriate action within two working days
  - AR 20-1, paragraph 7-1j (1), Appendix D-1

- **Soldiers LTC and below:** Input the allegations into the IGARS database within two working days
  - Local IG can inquire / investigate
  - AR 20-1, paragraph 7-1k (1), Appendix D-1; The A&I Guide, Part Two, Section 2-5

- **COLs:** Report to SAIG-IN within 2 working days AND input into the IGARS database within two working days
  - Local IG can inquire / investigate
  - AR 20-1, paragraph 7-1k (2), Appendix D-1; The A&I Guide, Part Two, Section 2-5

Summary

- **How many levels of evidence are there?**
- **What is the IG Standard of Proof?**
- **Define a properly worded allegation.**
- **What / who are Civilian-Civilians?**
- **What is the difference between an issue and an allegation?**
- **Why do we analyze complaints for issues and allegations?**
- **Define the following terms:**
  - **Investigation**
  - **Investigative Inquiry**
  - **Directing Authority**

Here's one left on your door last night!

DEAR GENERAL,

COL Brown, the DFMWR, is having an affair with the secretary.

Concerned and Jealous

P.S. He harasses all the women in DFMWR and often doesn't even show up for work!

Proper Allegation?

COL Brown acted improperly in that he sexually harassed Ms Smith by asking her for dates on 20, 21, 22, and 25 JUL 2002 in violation of AR 600-20.

COL Brown sexually harassed Ms Smith by asking her for dates in violation of AR 600-20.

How about these?

IG Investigations

COL Brown improperly conducted an adulterous relationship with a female employee at Fort Von Steuben in violation of Article 134, UCMJ.

xxxxxxx
x

COL Brown was improperly absent from his place of duty in violation of Article 86, UCMJ.

xxxxxxx
x

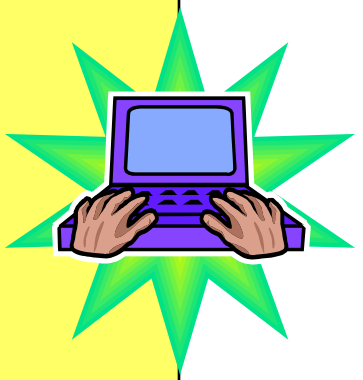
COL Brown improperly sexually harassed female employees in violation of AR 600-

Where to Find Standards

Web Sites

IG Investigations

- **Code of Federal Regulations (CFR) = http://www.gpoaccess.gov/cfr/retrieve.html**
- **DoD Directives = www.dtic.mil/whs/directives/**
- **United States Code (USC) = www.law.cornell.edu/uscode/**
- **Army Regulations = www.apd.army.mil or www.army.mil/usapa/**
- **National Guard Regulations = http://www.ngbpdc.ngb.army.mil/publications.htm**



How To Read A Standard

Article 92 – Failure to obey order or regulation

- **Text:**

“Any person subject to this chapter who—

(1) violates or fails to obey any lawful general order or regulation;

(2) having knowledge of any other lawful order issued by a member of the armed forces, which it is his duty to obey, fails to obey the order; or

(3) is derelict in the performance of his duties; shall be punished as a court-martial may direct.”

- **Elements:**

(1) Violation of or failure to obey a lawful general order or regulation.

(a) That there was in effect a certain lawful general order or regulation;

(b) That the accused had a duty to obey it; and

(c) That the accused violated or failed to obey the order or regulation.

- **Explanation - Provides additional information pertaining to the article**

CASE STUDY

PE #1 - LTC Bowie

- What is LTC Bowie's status?
- What type of complaint is this?
- Who is the office of record? Why?
- Who is the subject / suspect?
- What are the issues / allegations?
- What is the standard?
- What do we do now, IG?

Concerns – COL Santa Anna

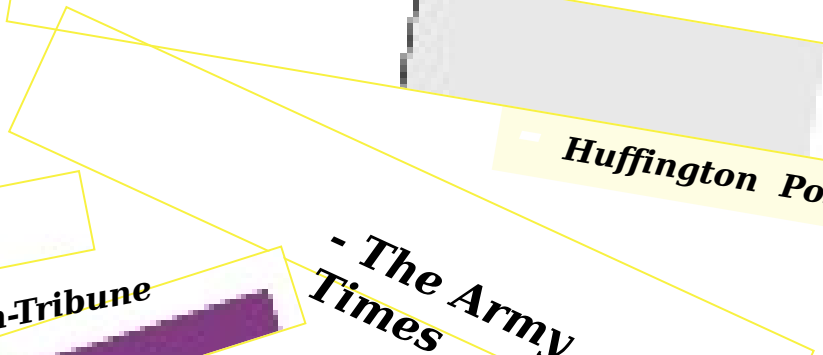
IG Investigations

- **Improper Relief Allegation**
- **"Toxic" Leadership**
- **Spousal Behavior?**
- **Reign of Terror**
- **Redeployment**
- **Commander, 4th BCT**

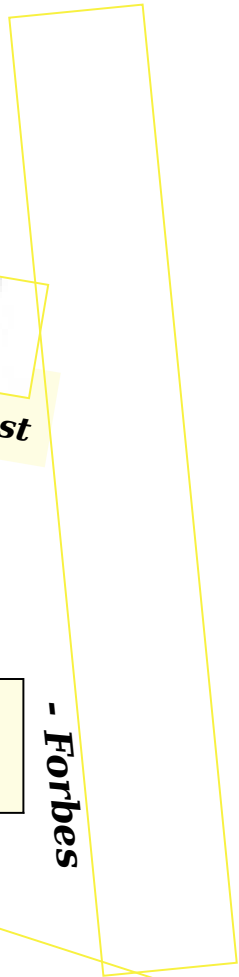
Why does the IG get "stuck" working leadership issues?

It Affects War Fighting and Readiness

IG Investigations



Betrayal of Trust? Allegations of rape at West Point, Annapolis, CNN



The military' persistent gender divide

JULIETTE KAYYEM Boston Globe

ACLU.org

1 STAR SEX CHARGES
- Army Times

COL Santa Anna

What do we do now?

Acknowledge Receipt

Continue with IGPA

Let's talk to the complainant…

- **PE #2**

Allegations – COL Santa Anna

IG Investigations

COL Santa Anna improperly abused his authority in his treatment of subordinates and their spouses in violation of Army Regulation (AR) 600-100, section 2-1 and Article 92, UCMJ.

XXXXXXX

COL Santa Anna improperly relieved a subordinate commander in violation of AR 600-20, section 2-17.

- **Reporting Requirement? AR 20-1, 7-1k (2) and Appendix D-1**
- **Open the IGAR within two working days… AR 20-1, 7-1k (1)**

Elements of Proof

- **AR 600-100, paragraph 2–1. General**
- **Every leader will—**
- *a.* Set and exemplify the highest ethical and professional standards as embodied in the Army Values.
- *b.* Accomplish the unit mission.
- ***c.* Ensure the physical, moral, personal, and professional wellbeing of subordinates.**
- *d.* Effectively communicate vision, purpose, and direction.
- *e.* Build cohesive teams and empower subordinates.
- *f.* Teach, coach, and counsel subordinates.
- ***g.* Build discipline while inspiring motivation, confidence, enthusiasm, and trust in subordinates.**
- *h.* Develop their own and their subordinates' skills, knowledge, and attitudes.
- *i.* Anticipate and manage change and be able to act quickly and decisively under pressure.
- *j.* Use initiative to assess risk and exploit opportunities.
- ***k.* Treat subordinates with dignity, respect, fairness, and consistency.**
- ***l.* Foster a healthy command climate**

Elements of Proof

IG Investigations

- **AR 600-20, paragraph 2-17. Relief for cause**
- ***a.*** **Senior Commander has the authority to relieve.**
- **1. Must counsel unless inappropriate or impractical under the circumstances.**
- **2. Commander may temporarily suspend, but must get final written approval from the first general officer in the chain of command.**
- **3. Action is temporary until the first general officer in the chain of command submits his or her written approval.**
- ***BUT***
- ***b.*** **If relieved as a result of 15-6, then**
- **1. Referral and comment procedure must be followed.**
- **2. Relieved officer may be temporarily suspended pending completion of the procedural safeguards contained in AR 15-6.**
- **3. Action to relieve before completion of the procedural safeguards of AR 15-6 is a temporary suspension.**

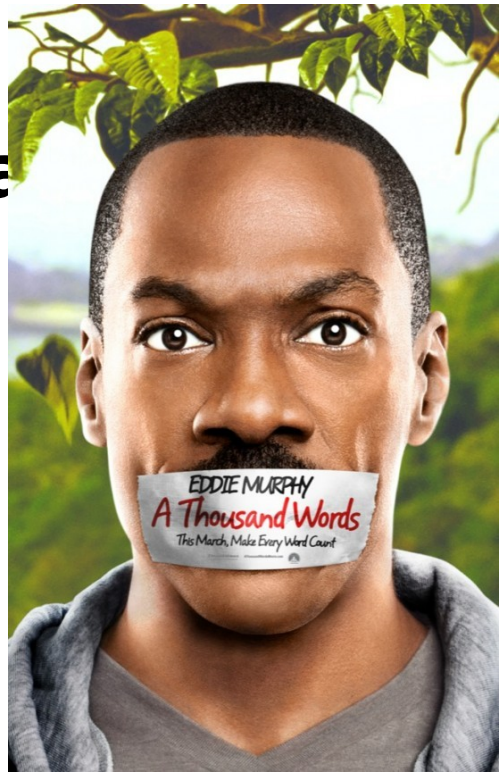
Elements of Proof

Article 92, UCMJ

- **(1) *Violation of or failure to obey a lawful general order or regulation.***
- **(a) That there was in effect a certain lawful general order or regulation;**
- **(b) That the accused had a duty to obey it; and**
- **(c) That the accused violated or failed to obey the order or regulation**

Elements of Proof

- **Words Have Meaning!**
- **Plain language of the standa**
- **Conjunctions count**
  - **And**
  - **OR**
  - **But**



First Determine if the Allegation is IG Appropriate

ELO 8

IG Investigations

- Serious criminal misconduct?
- Established means of redress?
- Chain of command decides to address?
- JAG professional misconduct?
- Chaplain professional misconduct?

If yes, then ordinarily not IG appropriate

- IGs can inquire into / investigate violations of laws, regulations, and policies
- If substantiation appears likely during IGPA and adverse actions may be appropriate, refer to another form of investigation and use the final command product to resolve the allegation in the IG system.

AR 20-1, paragraph 7-1a and 7-1i; The A&I Guide, Part Two, Section 2-6

Now What are the Commander's Options?

IG Investigations

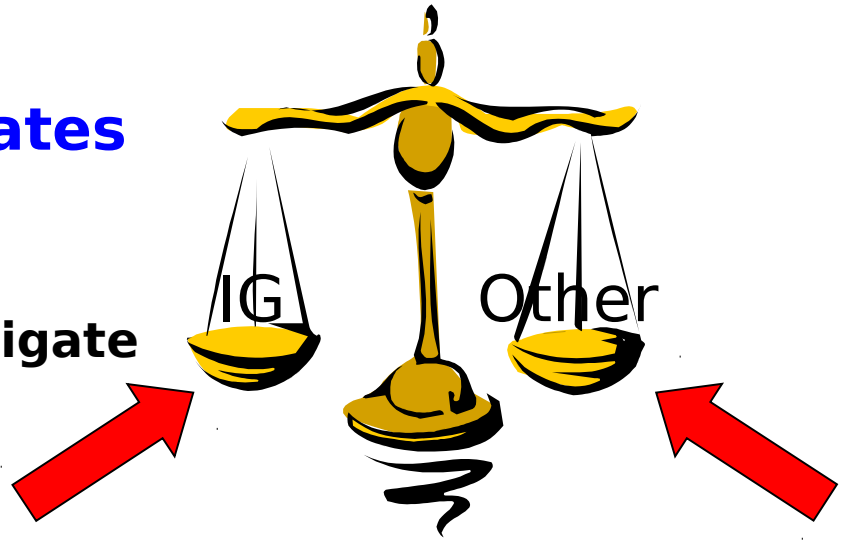
The A&I Guide, Part Two, Section 2-7

- **UCMJ Rule 303, Preliminary Inquiry**
- **AR 15-6 Investigation**
- **UCMJ Article 32**
- **Criminal Investigation Division**
- **Military Police Investigation**
- **Chain of Command**
- **Civil Authority**
- **Inspector General**
- **Do Nothing**

Why should the IG investigate?

Given that the allegation is IG appropriate, the IG investigates when…

- **Commander's preference or**
- **Factors favor that the IG investigate**
  - **Lack of factual information**
  - **Identity of Subject / Suspect**
  - **Sensitivity of allegations**
  - **Protect reputations**
  - **Confidentiality**
- **If substantiation appears certain during IGPA (or later in Step 4) and adverse action may be appropriate, refer the allegation to the commander.**



If the Commander investigates, then the IG must wait for the command product and use it to resolve the allegation in the IG system.

Inspector General Preliminary Analysis (Step 2) (cont'd)

- **During preliminary analysis we must select a course of action to best solve the puzzle.**
- **Which course of action do we choose?**
  - **IG Investigation / IG Investigative Inquiry or**
  - **Referral to another form of investigation?**
- **The Commander's Guidance can help you determine which course of action to select.**

"It Depends"

Investigation vs. Investigative Inquiry

ELO 9

Definitions

- **Investigation**: A fact-finding examination into allegations, issues, or adverse conditions of a **serious** nature to provide the directing authority with a sound basis for decision and actions.

FORMAL

ROI

- **Investigative Inquiry:** A fact-finding examination into allegations, issues, or adverse conditions that are **less significant** in nature.

INFORMAL

ROII

AR 20-1, paragraph 7-1 a and b; The A&I Guide, Part Two, Sections 1-2 and 2-10

Investigation vs. Investigative Inquiry

Similarities

- **Fair and Impartial**
  - IG is not an adversary or a champion
  - IGs do not recommend adverse action
- **Thorough – emphasis on facts**
- **Concerned with Confidentiality**
  - Limited distribution of information
  - Overt but *discreet*
  - Protect all individuals from reprisal / ridicule, including the

Investigation vs. Investigative Inquiry

Differences

- **Formal – Investigation**
  - **Written Directive from CG / Directing Authority**
  - **Transcribed Testimony Recorded under Oath**
- **Informal – Investigative Inquiry**
  - **Authorized by Command IG or State IG**
  - **Testimony Recorded under oath <u>not required</u>**

AR 20-1, paragraph 7-1b (4); The A&I Guide, Part Two, Sections 1-2, 2-10

Which IG Method -- Investigation or Investigative Inquiry?

ELO 10

- **Some factors for considering which is preferable:**
  - **The allegation is serious and could result in adverse action or criminal charges**
  - **High versus low degree of documentation is important**
  - **The potential for harm to a Soldier (or Soldiers) exists**
  - **The image of the Army may be affected**
  - **The impact on the command would be great**
  - **The allegation will likely have media interest**
  - **The Commander directs you to conduct an**

Preliminary Analysis Tools

- Research your subject / suspect
- Google
- Facebook
- Other Social Networking Sites
- iPERMS
  - DA Photo
  - Assignment History

Consultation with the SJA

- **Helps Identify Standards**
- **Aids in Refining Allegations**
- **Helps to Establish Elements of Proof**
- **Not required,**
  but it is a good ide

- **PE #3**

Obtain Authority - Inquiry

IG Investigations AR 20-1, paragraph 7-1a (2); The A&I Guide, Part Two, Section 2-10

- **No formal authorization required**
- **Command or State IG may direct**
- **Based on Commande guidance**

Obtain Authority – Investigation

AR 20-1, paragraph 7-1b (4); The A&I Guide, Part Two, Section 2-10

- Requires a **written directive** from the directing authority (CG / TAG / TIG)
- The detailed IG responsible for the investigation normally obtains the directive
- The IG prepares an **Action Memorandum** to request the written directive

Action Memorandum

- Gives background information
- States the allegation(s)
- Summarizes the case
- Provides the scope / limits of the investigation
- Includes SJA opinio

Directive

- **Authorizes the investigation**
- **General description of the allegation**
  - **Names are not included to protect confidentiality**
  - **Directive is presented to all individuals who are interviewed to show your authority to conduct the**
- **PE #4**

Action Memo + Directive

- Ensures a clear, mutual understanding

between the IG and the directing authority

concerning what is to be investigated.

- The IG's contract with the Directing Authority

Initiate Referrals / Make Notifications (Step 3)

- **If a non-IG investigation is appropriate at this time, we will refer it to the proper authority.**
  - **What can we provide a non-IG investigating officer?**

  AR 20-1, paragraph 3-5d (3)
- **If we refer allegations to the command, the IG will review the command product to ensure that the command's investigating officer formally notified the subject / suspect of his or her status, that the subject / suspect had unfavorable information about him or her, and that the subject / suspect had an opportunity**

Summary

- **What are the differences between IG Investigative Inquiries and Investigations?**
- **What is the purpose of -- and contents of -- the Action Memorandum and Directive?**
- **What factors favor an IG Investigation over an Investigative Inquiry?**
- **How should an allegation be resolved if substantiation appears likely and**

Initial Notifications

If the IG is conducting an Investigation or Investigative Inquiry…

IG Investigations

- **Verbally notify appropriate commanders and or supervisors of the investigation (inquiry) and inform them of the nature of the allegations**
- **Verbally notify the subjects or suspects of the investigation (inquiry) and inform them of the nature of the allegations**
- **Record notifications in IGARS and in the ROI / ROII**

AR 20-1, paragraphs 7-1b (3) (b)

The A&I Guide, Part Two, Section 3-2

- **PE #5** ***Let's notify COL Santa Anna***

IG Fact Finding - Plan (Step 4)

ELO 11

IG Investigations

- **An IG Investigation requires a written investigative plan (working document)**

- **An investigative plan includes:**

✓ Witness list including complainant, SMEs, and subject / suspect

✓ Time, location, and sequence of interv

✓ Questions / interrogatories

AR 20-1, paragraph 7-1b(4)(c); TIGA&I Guide, Part Section 4-3

Question Development

Developing an Interrogatory

What is / are the elements of proof?

Develop the key facts to meet the elements of proo

Who
What
When
Where
Why
How
How many / much

W 5

H 2

Question Development
Cont.

Weak Questions

- **Do you know Ms Sallie Smith?**
- **Do you and Ms Smith have a romantic relationship?**
- **Do you call Ms Smith from your government cell pho**
- **Are you aware of the JER provisions on cell phone us**
- **Do others perceive your relationship with Ms Smith a inappropriate?**
- **Do you think anyone might perceive your relationshi with Ms Smith as inappropriate?**

Question Development
Cont.

Stronger Questions

- **How do you know Ms Sallie Smith?**
- **What is the nature of your relationship with Ms Smith?**
- **How often do you call Ms Smith from your government cell phone?**
- **What is the nature of your calls to Ms Smith from your government cell phone?**
- **Why might others perceive your relationship with Ms Smith as inappropriate?**
- **Who perceives your relationship with Ms Smith as inappropriate?**

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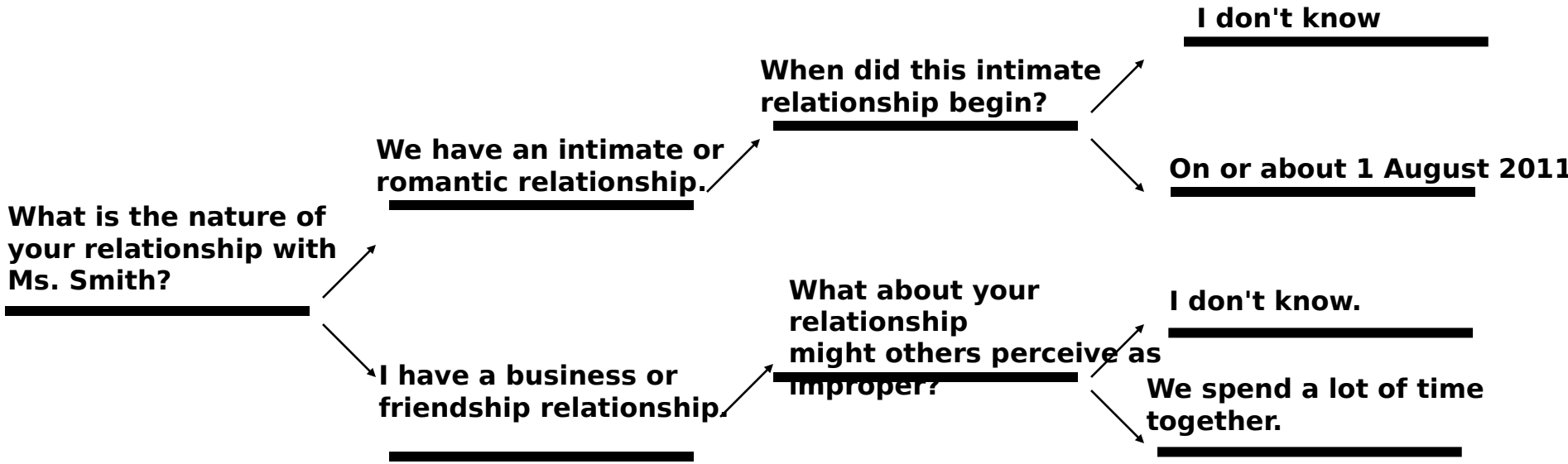
Question Development
Cont.

IG Investigations


What is the nature of your relationship with Ms. Smith?
We have an intimate or romantic relationship.
When did this intimate relationship begin?
I don't know
On or about 1 August 2011
I have a business or friendship relationship.
What about your relationship might others perceive as improper?
I don't know.
We spend a lot of time together.

IG Fact Finding - Plan (Step 4) --completing your plan

Complete the Plan

- Witness List
- Itinerary (time, place sequence)
- Interrogatories (questions)

- Be Prepared to Change Your Plan!!!
- PE #6

Gather Evidence (Step 4)

- Collect documents
- Collect physical evidence
- Conduct interviews
  - Complainant
  - Experts
  - Witnesses
  - Subjects / Suspec

Categories of Evidence

- Standards (evaluate evidence using standards)
- Documentary Evidence
- Testimonial Evidence
  - Testimony Recorded Under Oath
    - Transcribed
    - Summarized
  - Oral or Written Statements (not sworn)
- ~~Other Evidence (physical objects)~~
- IG's personal observations -- avoid

Gather Evidence

- Let's interview Rose, Rear Det CDR
- PE #7
- What did we ge
- What now, IG?
- Update the Matrix

Evidence Matrix

IG Investigations

Investigation Plan – OTR 12-0021

	Improper relief	Command Climate	Other/Due Outs
LTC Bowie	Believes he was relieved in theater because CDR did not like wife COL Santa Anna claimed relief was for poor judgment COL Santa Anna threatened Bowie; get wife under control or be relived (page 6) BG Klink warned LTC Bowie Santa Anna "out to get him" Relived March 6	BN Commanders confronted Santa Anna Mrs. Santa Anna threatened to have him relieved and COL Santa Anna ratified the threat "my wife speaks for me" Has not received his OER COL Santa Anna removed BN S-3 just before deployment Mrs. Santa Anna abusive, COL Santa Anna did not intervene	Interview LTC Ewing, LTC Crockett, LTC Houston, MAJ Rose, and Ursula Bowie Consult with SJA, re: FRG coordinator cooperation requirements
E-mail	"If you cannot get your wife under control, then I will find someone who can. Signed Gunfighter Six."	"If you cannot get your wife under control, then I will find someone who can. Signed Gunfighter Six."	
MAJ Rose			
LTC Crockett			
LTC Ewing			
Betty Santa Anna			
COL Santa			

Santa Anna command | Disagreement and Email | Deployed OEF | Ordered to Report | Relieved | Complaint Letter | LTC Bowie Interview

OCT 2010 | DEC 2010 | MAR 2011 | 5 MAR 2012 | 6 MAR | 14 APR | 17 APR

Execute Your Plan

ELO 12

- **IGs usually take testimony under oath**

- **How many witnesses do we interview?**
  - **Minimum number necessary to substantiate or refute the allegation(s) – you decide !**
  - **Thorough, but don't overkill!**

The A&I Guide, Part Two, Section 4-3

Summary

- What are the notification requirements during an IG Investigation (you are the office of record)?
- True or False: Interviewing witnesses until there is preponderance of credible evidence is not enough.
- PE #8

Interviews

The A&I Guide, Part Two, Appendix B, Sections 1-6 and 4-4 through 4-11

IG Investigations

Keys to success:

- Preparation
- Attitude and Demeanor
- Ability to:
  - Put witness at ease
  - Maintain impartiality
  - Adapt
- LISTEN!
- OBSERVE!
- No Surprises
- Get the witness

Interviews

Tactics and Techniques

- **Free Narrative**

  "Tell me what you know about Ms Smith."

- **Direct Examinatio**

  "Where did you go with Ms Smith on the night of 15 January 2003?"

- **Paraphrasing**

  "Earlier you stated that you and Ms Smith started dating in January; is that right?"

Interviews

Four-Part Process

1. Pre-tape briefing (off tape)
2. Read-in (on tape)
3. Questioning (on tape)
4. Read out (on tape)

The A&I Guide, Part Two, Section 4-9

Gather Evidence

- **Let's interview LTC Houston, Commander, 5-6th Infantry**
- **PE #9**
- **What NOW?**
- Update the Matrix

Interviews

Avoid:

- Being defensive
- Asking:
  - **Yes or No questions**
  - **Leading questions**
  - **Irrelevant questions**
- Losing control of interview
- Losing your temper
- Interrupting the witness
- Giving advice or counsel
- Being intimidated

Interviews
Don't Do This!

IG Investigations

Interviews

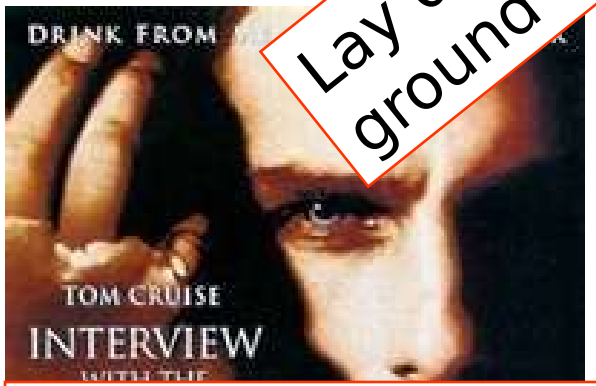
(The A&I Guide, Part Two, Section 4-9)

IG Investigations

- **Pre-tape briefing**
  - **IG Role**
  - **Process and Confidentiality**
  - **FOIA**
  - **Privacy Act**
  - **Header Sheet**
  - **Rights Warning**
  - **Interview Prep Book (Appendix**
- **Swearing / Affirming Oaths**

Establish rapport

Lay down the ground rules



Establish a baseline and define the witness's speech and mannerisms.

Categories of IGs

Who can participate in interviews?

IG Investigations

Category	
• Detailed IG (Commissioned Officer, WO, sel DAC)	• YES
• Assistant IG (WO / NCO / DAC)	• YES
• Temporary Asst IG (“Subject-Matter Expert”)	• YES
• Acting IG (Commissioned Officer)	• NO
• Admin Support staff	• NO

AR 20-1, table 2-1 and paragraph 7-1e

Witness Interviews via Telephone

IG Investigations

- **Pre-tape**
- **Read-In**
  - **Which script?**
- **Questions**
- **Read-Out**
  - **FOIA Release**
- **Interview Prep Book**

  (Appendix A)

It's now time to interview Betty Santa Anna!

– PE #10

Evaluate the Evidence

- Transcript
- Documents

Fill in your matrix !!

Suspect Interviews

IG Investigations

- **Pre-tape**
- **Read-In**
  - **Which script?**
- **Questions**
- **Read-Out**
  - **FOIA Release**
- **Interview Prep Boo**

  (Appendix A)

- **PE #11**

Evaluate the Evidence

- **Analyze for accuracy, veracity, and relevance**
- **Check for inconsistencies and corroboration**
- **Summarize redundancies**
- **Determine and correct voi**
- **Draw clear and supported conclusions**
- **Use your best judgment**
- **Complete your matrix**

The A&I Guide, Part Two, Sections 1-11 and 4-13

Use of Command Products

ELO 13

- **Notification Requirements**
  - Initial and final
  - Still an IG Responsibility
- **Command Product Suitability**
  - Evaluate
  - Investigations / Investigators IAW applicable regulations
  - Legal review
  - Addressing all issues / allegations

AR 20-1, paragraph 7-3; The A&I Guide, Part Two, Sections 3-3 and 4-15

Use of Command Products (Con't)

- **Command product use**
  - If found suitable and answers all IG issues / allegations, then present it as the primary evidence and adopt the command finding in a modified ROI / ROII
  - If not suitable, use as another piece of evidence in your ROI / ROII (not the modified ROI / ROII format)
  - If found suitable but doesn't answer all IG issues / allegations, then use a hybrid of the above two
- **Resolving disagreements**
  - Legal review
  - Not concurring with finding(s)
  - If not resolved, use as another piece of evidence in your ROI / ROII (not the modified ROI / ROII format)

COL Santa Anna improperly relieved a subordinate commander in violation of Army Regulation (AR) 600-20, paragraph 2-17, and Article 92, UCMJ.

Substantiate	Not Substantiate

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Begin the ROI / ROII

- Check your matrix
- Review your evidence
- Complete your force field diagrams
- Organize your evidence into exhibits

PE # 12

The A&I Guide, Part Two, Sections 1-11 and 4-13

Building the ROI / ROII

ELO 14

AR 20-1, paragraph 7-2; The A&I Guide, Part Two, Sections 2-7, 4-1, and 4-14

IG Investigations

Administrative Section Required with or without an Executive Summary

- Executive Summary (when
  - Administrative Section
    - Name / Position
    - Authority
    - Background (delete if usin Introduction)
  - S / N Allegation
  - Synopsis
- Introduction (optional)
- Consideration of Allegati
- Other Matters
- Recommendations

- Standard
- Elements of Proof
- Key Evidence
- Compare Evidence against the Standard
- Conclusion

An ROI / ROII is required to substantiate or not substantiate an

Building an ROI

The A&I Guide, Part Two, Section 4-14

IG Investigations

CONSIDERATION OF ALLEGATIONS

STANDARDS

DOCUMENTS

TESTIMONIES

1. FIRST ALLEGATION
   a. EVIDENCE
      (1) _____
      (2) _____
      (3) _____

   b. DISCUSSION
   (Five Parts)
   c. CONCLUSION

ACTION MEMO

2. SECOND ALLEGATION
   a. EVIDENCE
      (1) _____
      (2) _____
      (3) _____

   b. DISCUSSION
   (Five Parts)
   c. CONCLUSION

Classification Marki

ROI Tips

The A&I Guide, Part Two, Section 4-14, Page II-4-57 and II

IG Investigations

- **Allegations:** Be clear, concise, and consistent
- **Standards:** Use the correct one(s)
- **Evidence:** Address elements of the standard(s)
- **Discussion:** Ensure that discussi are introduced as evidence
- **Style:**
  - Past tense
  - Use “alleged”
  - Testified vs. stated
  - Use IO notes only for clarity – avoid opinion / emotion

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Example ROI / ROII

ALLEGATION: From the Action Memorandum:

COL Santa Anna improperly used Government communications systems in violation of DoD 5500.7-R, The Joint Ethics Regulation.

EVIDENCE:

1. Standards: May be summarized or verbatim

a. DoD 5500.7-R, The Joint Ethics regulations, ***dated*** ... stated ***in paragraph…***(EXHIBIT B-1)

b. AR 25-1, ARMY KNOWLEDGE MANAGEMENT AND INFORMATION TECHNOLOGY , ***dated ,*** stated **in paragraph x-x that …**(EXHIBIT B-2)

Example ROI / ROII

2. Documents: Properly Reference and summarize what is important

a. In a memorandum dated 24 June 2003, subject: SJA Opinion, MAJ Richard Britton, Investigator, Fort Von Stueben, summarized the opinion he received from the SJA.... (EXHIBIT C-1)

b. In a handwritten note dated 25 June 2003, Ms Betty Jones, Flight Operations Administrative Assistance, stated that on 25 February 1999... (EXHIBIT C-2)

[IO Note: Useful to explain the details not contained within the document]

Example ROI / ROII

3. Testimony: Ms Betty Jones, contactor, Executive Assistant, Flight OPS, Ft Von Steuben, testified on 3 July 2003 that.... (EXHIBIT D-1)

Evidence Dos and Don'ts

DO:
Summarize
Explain the evidence
Be succinct

Don't
Cut and paste whole documents
Include the irrelevant

Example ROI / ROII

4. DISCUSSION:

(Five Parts)

(1) *(Restated Allegation)* In plain language, What did the complainant allege?

(2) *(Summarized Standard)* Briefly summarize the standard

(3) *(Evidence Supporting Substantiation)* What evidence supports substantiation

(4) *(Evidence Supporting Not Substantiation)* Which evidence supports not substantiation or mitigation

(5) *(Analysis of All Evidence)* Apply all of the evidence considered to the standard.

Example ROI / ROII

5. CONCLUSION: The allegation that...

Was Substantiated OR was not substantiated

OTHER MATTERS:

- **Problems for the commander to fix**
- **Must be addressed in Recommendations**

RECOMMENDATIONS:

1. The report be approved and the case be closed.

2. Address all other matters

Remember: IGs never recommend adverse actions against individuals. However, it is appropriate to recommend administrative action to correct a mistake (for example, recovery of an improper TDY payment). Recovering an unauthorized payment is not adverse action.

Obtain Commander's Approval

- **Seek SJA review and legal sufficiency**
- **Hand-carry ROI to Directing Authority**
- **Usually brief results to Commander**
- **Commander**:
  - Approves
  - Modifies
  - Disapproves
  - Directs additional action

Notifications (Step 5)

- **Commander / Supervisor:**
  - **Notify the appropriate commanders or supervisors of the approved results of the Investigation / Inquiry and enclose a copy of the notification in the case file**

AR 20-1, paragraphs 7-1b (5) (c), (d), and (f)

Notifications (cont'd)

- **Subject / Suspect:**
  - **Notify the subject or suspect of the approved results of the Investigation / Inquiry in writing and enclose a copy of the notification in the case file**
  - **Notify the subject or suspect of any unfavorable information that the IG included in the ROI/ROII for which the subject or suspect was not apprised**
  - **If substantiated, notifications will include FOIA procedures**

AR 20-1, paragraphs 7-1b (5) (a), (b), (e), and (f)

Requests for IG Information

ELO 15

IG Investigations

- **FOIA:**
  - AR 20-1, paragraph 3-4c
- **Review own testimony:**
  - Witness, subject / suspec
  - In the IG office; don't get copy
  - AR 20-1, paragraph 3-7b (2);
  - The A&I Guide, Part Two, Section 1-4
- **Department of the Army Investigator:**
  - Allegation list
  - Documents not given in confidence to the IG
  - Witness list w/brief synopsis of relevant testimony

Conduct Follow-up (Step 6)

- Follow-up ensures that all issues have been thoroughly addressed and IG responsibilities have been fulfilled
- IG's primary concern is with ensuring that IG actions, command decisions, or proponent actions were completed
- Review for appeals or due-process actions
- Maintain responses from the subject or suspect to unfavorable information that will appear in ROI / ROII with the case file if the IG cannot attach the record to the electronic IGARS file
- Maintain any notification of unfavorable information made to the subject or suspect during this step with the case file if the IG cannot attach the notification to the electronic IGARS file

AR 20-1, paragraph 7-1b (6)

Close the IGAR (Step 7)

- **Provide the Complainant a final reply**
  - **In writing**
  - **Only results that pertain to the complainant (injured or third party)**
  - **Record the final reply notification in the IGARS database, and maintain the notification record with the case file if the IG cannot attach the record to the electronic IGARS file**

AR 20-1, paragraph 7-1b (7)

- **Close the case in the IGARS**

What Do You Do…?

When you uncover evidence of additional improprieties?

When you receive allegations against a GO or SES?

When a witness incriminates himself or herself?

When a witness refuses to cooperate?

When you uncover evidence of wrong-doing by a civilian-civilian?

When handing off to an Army investigator?

When you have completed your case?

QUESTIONS?